

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS** MARSHA DAVIS  
2062 Kingston Street  
Philadelphia, PA 19143

**(b)** County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorney's (Firm Name, Address, and Telephone Number)  
Xavier P. Hayden, Esquire  
Dion, Solomon & Shapiro, LLC - 1801 Market  
Street, Suite 606 Phila., PA 19103

**DEFENDANTS** CITY OF PHILADELPHIA and  
POLICE OFFICERS JOHN DOE #1-10  
1515 Arch Street - 14th Fl., Phila., PA  
19102 Philadelphia

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395f)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fed Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input checked="" type="checkbox"/> 440 Other Civil Rights  | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |  |  |

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Brief description of cause:

Civil Rights - 42 U.S.C. Section 1983, et al.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

September 11, 2009

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MARSHA DAVIS  
2062 Kingston Street  
Philadelphia, PA 19143

CIVIL ACTION

CITY OF PHILADELPHIA and POLICE OFFICERS  
JOHN DOE #1-10

NO.

1515 Arch Street - 14th Floor, Phila, PA 19102  
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

September 11, 2009  
Date

Attorney-at-law

Plaintiff, Marsha Davis  
Attorney for

(215) 561-0877

(215) 561-3557

xhayden@dionsolomon.com

Telephone

FAX Number

E-Mail Address

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**OFFICE OF THE CLERK OF COURT**

**Rule 5.1.2 of the Local Rules of Civil Procedure  
Electronic Case Filing**

**Validation of Signature Form**

Pursuant to Rule 5.1.2, Electronic Case Filing, all attorneys who have been excused from registering as an ECF Filing User, as defined in the ECF Procedures set forth in Rule 5.1.2, are required to complete this *Validation of Signature* form validating his or her signature for submission of filings on disk in portable document format (PDF), so that the filings may be entered into the District Court's ECF system. The document on disk must be accompanied by a courtesy copy of the document in paper format for use by the court. Attorneys who complete this form will receive a signature code which must be used by the attorney on the signature line of all courtesy copies submitted with a disk. The document as submitted on the disk will constitute the original document under Section 3 of Local Civil Rule 5.1.2.

**(Please Print or Type)**

First Name: xavier Middle Initial/Name: P.

Last Name: Hayden Generation (i.e., Sr., Jr.)

Firm: Dion, Solomon & Shapiro, LLC Bar Id No. and State: 56258 PA

Address: 1801 Market Street, Suite 606

Address:

City: Philadelphia State: PA Zip Code 19103

Telephone No: (215) 561-0877 FAX No: (215) 561-3557

E-mail Address: xhayden@dionsolomon.com

Are you admitted to practice in the Eastern District of Pennsylvania?

☒ Yes ☐ No

If yes, are you a member in good standing?

☒ Yes ☐ No

Are you admitted to practice pro hac vice in the Eastern District of Pennsylvania?

☐ Yes ☒ No

Are you registered as an ECF Filing User in the Eastern District of Pennsylvania?

☒ Yes ☐ No


If no, would you like to also register as an ECF Filing User in the Eastern District of Pennsylvania?

☐ Yes ☐ No

***By submitting this registration form, the undersigned agrees/consents to the following:***

1. I have read and understood the provisions of Rule 5.1.2 of the Local Rules of Civil Procedure, *Electronic Case Filing*, and the court's *ECF Procedures* set forth in Rule 5.1.2, and I agree to abide by all provisions set forth therein.
2. I agree that this form constitutes my signature for filings which must be submitted on disk in portable document format (PDF), as required by Section 3 of Rule 5.1.2, *Electronic Case Filing*. I understand that I will be provided with a signature code which I must use on the signature line of all courtesy copies submitted with a disk. I have read and understood the provisions of Rule 11 of the Federal Rules of Civil Procedure, and I agree that my signature code used on the signature line of all courtesy copies submitted with a disk will serve as my signature for purposes of Rule 11. I further understand that the document as submitted on the disk will constitute the original document under Section 3 of Local Civil Rule 5.1.2.
3. I understand and agree that service of process will be made in accordance with those provisions set forth in Rule 5 of the Federal Rules of Civil Procedure.

*I hereby certify that the above information is true and correct and I am a member in good standing of the United States District Court for the Eastern District of Pennsylvania.*

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
September 11, 2009  
Date

Please return completed form by U.S. Mail to: Michael E. Kunz  
U.S. District Court  
2609 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106-1797

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MARSHA DAVIS**  
2062 Kingston Street  
Philadelphia, Pennsylvania 19143

## CIVIL ACTION

## JURY TRIAL DEMANDED

**VS.**

**CITY OF PHILADELPHIA**  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, Pennsylvania 19102

NO.:

**and**  
**POLICE OFFICERS JOHN DOE #1-10**  
1515 Arch Street  
14<sup>th</sup> Floor  
Philadelphia, Pennsylvania 19102

## COMPLAINT

1. Plaintiff, **MARSHA DAVIS**, is an individual and adult citizen of the Commonwealth of Pennsylvania residing as captioned.

2. Defendant, **CITY OF PHILADELPHIA**, is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, which maintains its principal offices as captioned.

3. Defendants, **POLICE OFFICERS JOHN DOE #'S 1-10**, are currently unidentified police officers. At all times material hereto, Defendants, Police Officers John Doe #'s 1-10, were employed as police officers by the City of Philadelphia.

4. At all times material Defendant, **CITY OF PHILADELPHIA**, was charged with the responsibility of testing, hiring, training and/or supervising members of the Philadelphia

Police Department including in particular, Defendants, Police Officers John Doe #'s 1-10.

5. At all times material Defendants, Police Officers John Doe's 1-10, acted within the course and scope of their employment under the color of state law and pursuant to the customs, policies and/or practices of the City of Philadelphia and the City of Philadelphia Police Department, and are being sued both individually and in their official capacity as police officers, agents and/or employees of the Defendant, City of Philadelphia.

### **JURISDICTION**

6. This court has jurisdiction under Federal Law Pursuant to 28 U.S.C. § 1331 and 1343.

7. Venue is proper under 28 U.S.C. § 1391(b) because the causes of action upon which the complaint is based arose in Philadelphia County, Pennsylvania, which is in the Eastern District of Pennsylvania.

### **FACTS**

8. On or about September 20, 2007, said Plaintiff, **MARSHA DAVIS**, was an individual who was inside her own home when she was approached by Philadelphia Police Officers who were serving a search warrant.

9. At the time Plaintiff, **MARSHA DAVIS**, was approached by Philadelphia Police Officers she was inside her own residence and was not engaged in any illegal activity.

10. Plaintiff, **MARSHA DAVIS**, was approached by Police Officers John Doe's #1 thru #10 in a threatening manner in which their weapons were cut and a battering ram was in the hands of Officers John Doe #1 and John Doe's #2 - #10.

11. Plaintiff, **MARSHA DAVIS**, informed the Defendants, Police Officers John Doe #1 and John Doe's #2 - #10, that she was complying with their request to open her front door and

requested as to why her home was being searched by the police officer.

12. Defendant Police Officers ordered Plaintiff, **MARSHA DAVIS**, to step outside her door onto her front porch.

13. Defendants, Police Officers John Doe #1 and/or Police Officers John Doe #2 and/or John Does's #3 thru John Doe # 10 then jumped from the plaintiff's front porch to a neighbor's front porch across a railing between the two residences. Unknown to plaintiff, said officer abandoned the "battering ram," leaving the instrument on plaintiff's porch.

14. Plaintiff, **MARSHA DAVIS**, still complying with the directive of police officers stepped out onto her front porch.

15. After stepping onto the front porch, Plaintiff, **MARSHA DAVIS**, was caused to trip and fall on the abandoned "battering ram."

16. The foregoing conduct of the Defendants, Police Officers John Doe #1 and/or John Doe #2-10 were undertaken as part of an effort to unlawfully arrest and/or serve a search warrant on Plaintiff, **MARSHA DAVIS**, person and premises and otherwise deprive Plaintiff of her civil and constitutional rights and was an abuse of power.

17. The acts of the Defendants, Police Officers John Doe #1 and/or Police Officers John Doe #2-10 were committed recklessly, wantonly, maliciously, intentionally, outrageously and/or deliberately without just or probable cause or any other legal justification.

18. As a result and as a direct and approximate result of the aforementioned acts by the Defendants, Police Officer John Doe #1 and/or Police Officers John Doe #2-10, Plaintiff, **MARSHA DAVIS**, sustained injuries in and about her body and extremities which injuries are and may be severe, permanent and may have aggravated a previously existing condition. The Plaintiff sustained fracture left wrist, chronic left wrist sprain necessitating prolonged splintery,



limitation and function of her left hand and arm, left ulnar wrist pain, left trapezius region, right knee strain and sprain, contusions and a severe shock to her nerves and nervous system which injuries are and may be serious and permanent. The Plaintiff has suffered and may continue to suffer a loss of earnings and earning capacity; has incurred and may continue to incur medical expenses in and about an effort to cure herself of said injuries.

**COUNT I - 42 U.S.C. §1983**  
**ILLEGAL SEARCH & SEIZURE**  
**MARSHA DAVIS vs. POLICE OFFICERS JOHN DOE #1-10**

19. Plaintiff, **MARSHA DAVIS**, incorporates paragraphs 1 through 18 herein by reference as though each were fully set forth herein at length.

20. As aforesaid, Defendants, Police Officers John Doe #1-10, acting within the course and scope of their employment under the color of state law and pursuant to the customs, policies and/or practices of Defendant, City of Philadelphia, deprived Plaintiff, **MARSHA DAVIS**, of her rights, privileges and immunities under the Laws and Constitutions of the Commonwealth of Pennsylvania and the United States in particular, the right to be free from unlawful search and/or seizure all of which violated the Plaintiff's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, the Laws of the United States and of the Commonwealth of Pennsylvania, and were in violation of 42 U.S.C. § 1983.

21. As described above Defendants, Police Officers John Doe #1-10, maliciously, intentionally and/or recklessly caused unlawful search and seizure of the Plaintiff, **MARSHA DAVIS**, in her residence without probable cause, without privilege and against the Plaintiff's will.

22. As a direct and proximate result of the malicious, intentional and/or reckless



actions of Defendants, Police Officers John Doe #1-10, Plaintiff, **MARSHA DAVIS**, sustained injuries which are more fully described above.

23. The above described actions of Defendant, Police Officers John Doe # 1-10, were so malicious and reckless and displayed such a reckless indifference to the Plaintiff, **MARSHA DAVIS**'s rights and well-being, that the imposition of punitive damages is warranted.

**WHEREFORE**, Plaintiff, **MARSHA DAVIS**, demands compensatory and punitive damages against Defendants, Police Officers John Doe #1-10, for an amount in excess of One Hundred and Fifty Thousand (\$ 150,000.00) Dollars, plus interest, costs, attorney's fees and other appropriate relief.

**COUNT II - 42 U.S.C §1983**  
**EXCESSIVE FORCE**  
**MARSHA DAVIS vs. POLICE OFFICERS JOHN DOE #1-10**

24. Plaintiff, **MARSHA DAVIS**, incorporates paragraphs 1 through 23 herein by reference as though each were fully set forth herein at length.

25. As aforesaid, Defendants, Police Officers John Doe #1-10, acting within the course and scope of their employment, under the color of state law and pursuant to the customs, policies and/or practices of the Defendant, City of Philadelphia, deprived Plaintiff, **MARSHA DAVIS**, of her rights, privileges and immunities under the Laws of the Commonwealth of Pennsylvania and the United States and in particular, the right to be free from excessive use of force and unlawful seizure which violated the Plaintiff's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the Laws of the United States and the Commonwealth of Pennsylvania and were in violation of 42 U.S.C. §1983.

26. As detailed above, Defendants, Police Officers John Doe #1-10, acting within the course and scope of their employment, under the color of state law and pursuant to the customs,

policies and practices of the Defendant, City of Philadelphia, by their actions, intentionally, recklessly and/or maliciously assaulted and battered Plaintiff, Bruce Jordan, without legal cause or justification.

26. As a direct and proximate result of the malicious, intentional and/or reckless actions of the Defendants, Police Officers John Doe #1-10, the Plaintiff, **MARSHA DAVIS**, suffered injuries that are described more fully above.

28. The above described actions of the Defendants, Police Officers John Doe #1-10, were so malicious, intentional and reckless and displayed such a reckless indifference to the Plaintiff's rights and well being that the imposition of punitive damages is warranted.

**WHEREFORE**, Plaintiff, **MARSHA DAVIS**, demands compensatory and punitive damages against Defendants, Police Officers John Doe #1-10, in an amount in excess of One Hundred and Fifty Thousand (\$ 150,000.00) Dollars, plus interest, costs, attorney's fees and other appropriate relief.

**COUNT III - 42 U.S.C. §1983, 1988**

**CONSPIRACY**

**MARSHA DAVIS vs. POLICE OFFICERS JOHN DOE #1-10**

29. Plaintiff, **MARSHA DAVIS**, incorporates paragraphs 1 through 28 herein by reference as though each were fully set forth herein at length.

30. As detailed above Defendant, Police Officers John Doe #1-10, entered into a conspiracy to harm the Plaintiff, **MARSHA DAVIS**, and deprive her of the equal protection of the laws and deny the Plaintiff of her rights and privileges under the Constitution of the United States and laws of the United States and of the Commonwealth of Pennsylvania.

31. As detailed above the conspiracy directly and proximately resulted in harm to the

Plaintiff, **MARSHA DAVIS**, including the deprivation of her rights and privileges under the Constitution of the United States and the Laws of the Commonwealth of Pennsylvania.

32. As detailed above, Defendants, Police Officers John Doe #1-10, acting within the course and scope of their employment, under the color of state law and pursuant to the customs, policies and/or practices of the City of Philadelphia through the use of excessive force and unlawful seizure, intentionally, recklessly and/or maliciously assaulted and battered Plaintiff, **MARSHA DAVIS**, who posed no imminent threat to Defendants, deprived the Plaintiff of the privileges and immunities afforded to citizens of the United States and the Commonwealth of Pennsylvania, all of which actions violated the Plaintiff's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States and the laws of the United States and of the Commonwealth of Pennsylvania and all of which actions contributed to, assisted and implemented the conspiracy.

33. The Plaintiff believes and therefore avers that Defendants, Police Officers John Doe #1-10, acting within the course and scope of their employment, under the color of state law and pursuant to the customs, policies and/or practices of the Defendant, City of Philadelphia, provided intentional, as well as unintentional, support to the conspiracy to deprive Plaintiff, **MARSHA DAVIS**, of her constitutional rights.

34. As a direct and proximate result of the malicious, intentional and reckless actions of the Defendants, Police Officers John Doe #1-10, the Plaintiff, **MARSHA DAVIS**, suffered injuries that are described above.

35. The above described actions of the Defendants, Police Officers John Doe #1-10, were so malicious, intentional and reckless and displayed such a reckless indifference to the Plaintiff's rights and well being that the imposition of punitive damages is warranted.

**WHEREFORE**, Pursuant to 42 U.S.C. §1983, Plaintiff, **MARSHA DAVIS**, demands compensatory and punitive damages against Defendants, Police Officers John Doe #1-10, jointly and severally in an amount in excess of One Hundred and Fifty Thousand (\$ 150,000.00) Dollars, plus interest, costs, attorney's fees and other appropriate relief.

**COUNT IV - 42 U.S.C. §1983**  
**BYSTANDER LIABILITY**  
**MARSHA DAVIS vs. POLICE OFFICERS JOHN DOE #1-10**

36. Plaintiff, **MARSHA DAVIS**, incorporates paragraphs 1 through 35 herein by reference as though each were fully set forth herein at length.

37. Plaintiff, **MARSHA DAVIS**, believes and therefore avers that Defendants, Police Officers John Doe #1-10, encouraged and idly stood by while an illegal search and seizure of the Plaintiff's residence was conducted and while injury was caused to the plaintiff, which deprived the Plaintiff of her constitutional rights and privileges under the Constitution of the United States.

38. Plaintiff, **MARSHA DAVIS**, believes and therefore avers that Defendants, Police Officers John Doe #1-10, encouraged and failed to prevent their fellow officers from conducting an illegal search and seizure of plaintiff's residence and pursue and caused injury to and against the Plaintiff, and therefore deprived Plaintiff of her rights under the Fourth and Fourteenth Amendments.

39. As described above Police Officers John Doe #1-10, failed to fulfill their obligation to intervene when they had an independent and affirmative duty to prevent the illegal search and seizure of plaintiff's residence and injury upon the Plaintiff by their fellow officers.

40. As detailed above, by encouraging and failing to intervene, Defendants, Police

Officers John Doe #1-10, effectively assisted their fellow officers in subjecting plaintiff to an illegal search and seizure and causing her injury and therefore deprived her of her constitutional rights and privileges under the Constitution of the United States, more specifically the Fourth and Fourteenth Amendments.

41. The above described actions of the Defendants, Police Officers John Doe #1-10, in their individual capacities were so malicious, intentional and reckless and displayed such a reckless indifference to the Plaintiff's rights and well being that the imposition of punitive damages is warranted.

**WHEREFORE**, Pursuant to 42 U.S.C. §1983, Plaintiff, **MARSHA DAVIS**, demands compensatory and punitive damages against Defendants, Police Officers John Doe #1-10, jointly and severally in an amount in excess of One Hundred and Fifty Thousand (\$ 150,000.00) Dollars, plus interest, costs, attorney's fees and other appropriate relief.

**COUNT V - 42 U.S.C. §1983**  
**MONELL/UNCONSTITUTIONAL CUSTOM, POLICY AND/OR PRACTICE**  
**MARSHA DAVIS vs. CITY OF PHILADELPHIA**

42. Plaintiff, **MARSHA DAVIS**, incorporates paragraphs 1 through 41 herein by reference as though each were fully set forth herein at length.

43. Plaintiff, **MARSHA DAVIS**, believes and therefore avers that Defendant, City of Philadelphia, had adopted and maintained for many years a recognized accepted policy, custom and/or practice of condoning and/or acquiescing in the illegal and unconstitutional search and seizure of citizens, specifically search and seizure made of its citizens residences without the requisition probable cause upon the citizens of the, Commonwealth of Pennsylvania in or near City of Philadelphia.

44. Plaintiff, **MARSHA DAVIS**, believes and therefore avers that Defendant, City

of Philadelphia, has adopted and maintained for many years, a recognized and accepted policy, customs and/or practice of systematically failing to properly train, supervise and/or discipline members of City of Philadelphia Police Department, including Defendants, Police Officers John Doe #1-10, regarding constitutional restraints on search and seizure causation of injuries to its lawful citizens.

45. The above cited policy, custom and/or practice is deliberately indifferent to the rights of citizens in or near City of Philadelphia and violates the Fourth and Fourteenth Amendments of the Constitution of the United States, the laws of the United States and laws of the Commonwealth of Pennsylvania.

46. The Defendant, City of Philadelphia, was aware of the aforesaid described policy, custom and/or practice for a substantial period of time and despite its knowledge of the illegal policy, custom and/or practice as described above, the supervisory and policy making officials failed to take steps to terminate said practice, custom and/or policy; have failed to discipline or otherwise properly supervise its officers who engaged in the above described policy, custom and/or practice; have not effectively trained officers with regard to the proper constitutional and statutory limits regarding search and seizure powers and use of same and instead sanctioned the policy, custom and/or practice described above to the deliberate indifference of the constitutional rights of citizens of the Commonwealth of Pennsylvania.

47. By failing to take action to stop or limit the policy, custom and/or practice and/or by remaining deliberately indifferent to the systematic abuses which occurred in accordance with and as a direct and proximate result of the policy, custom and/or practice, Defendant, City of Philadelphia, condoned, acquiesced in, participated in and perpetrated the policy, custom and/or practice in violation of the Plaintiff's rights under the Fourth and Fourteenth Amendments of the

Constitutional of the United States and the Laws of the United States, and the laws of the Commonwealth of Pennsylvania.

**WHEREFORE**, Plaintiff, **MARSHA DAVIS**, demands compensatory and punitive damages against Defendants, Police Officers John Doe #1-10, in an amount in excess of One Hundred and Fifty Thousand (\$ 150,000.00) Dollars, plus interest, costs, attorney's fees and other appropriate relief.

**DION, SOLOMON & SHAPIRO, L.L.C.**

BY:

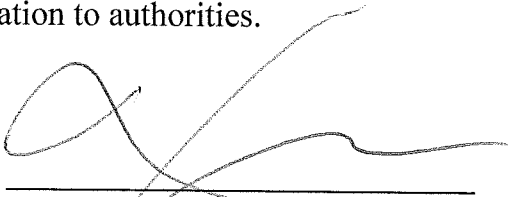
  
\_\_\_\_\_  
XAVIER P. HAYDEN, ESQUIRE  
Attorney for Plaintiff

**DATED: September 10, 2009**



**VERIFICATION**

XAVIER P. HAYDEN, ESQUIRE, hereby states that he is the attorney of record in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

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**XAVIER P. HAYDEN, ESQUIRE**  
Attorney for Plaintiff

***DATED: September 10, 2009***